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38881 7590 05/05/2008 DICKSTEIN SHAPIRO LLP 1177 AVENUE OF THE AMERICAS 6TH AVENUE NEW YORK, NY 10036-2714			EXAMINER PARK, IL WOO	
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1 UNITED STATES PATENT AND TRADEMARK OFFICE  
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4 BEFORE THE BOARD OF PATENT APPEALS  
5 AND INTERFERENCES  
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8 *Ex parte* RAVI SUBRAMANIAN, UMA JHA, and JOEL D. MEDLOCK  
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10 Appeal 2007-3205  
11 Application 09/772,584<sup>1</sup>  
12 Technology Center 2100  
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15  
16 Decided: May 5, 2008  
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19 Before JOSEPH L. DIXON, HOWARD B. BLANKENSHIP, and  
20 CAROLYN D. THOMAS, *Administrative Patent Judges*.  
21 THOMAS, C., *Administrative Patent Judge*.  
22

23 DECISION ON APPEAL

24 I. STATEMENT OF THE CASE

25 Appellants appeal under 35 U.S.C. § 134 from a Final Rejection  
26 of claims 1-16 and 51-66 entered November 5, 2004. We have jurisdiction  
27 under 35 U.S.C. § 6(b).

28 We affirm.

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2<sup>1</sup> Application filed January 29, 2001. The real party in interest is Infineon  
3 Technologies AG.

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## A. INVENTION

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Appellants invented a system and computer readable medium that  
3provides a wireless spread spectrum communication platform for processing  
4a communication signal. The wireless communication platform includes a  
5first computing element, a second computing element, and a reconfigurable  
6interconnect. (Spec., Abstract.)

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## B. ILLUSTRATIVE CLAIM

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Claims 1-98 are pending in the application, with claims 1-16 and 51-  
1066 on appeal. Claims 1 and 51 are independent claims. Claims 17-50 and  
1167-98 are withdrawn. Claim 1 is illustrative:

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#### D. REJECTION

2 The Examiner entered the following rejection which is before us for  
3review:

4 Claims 1-16 and 51-66 are rejected under 35 U.S.C. § 102(e) as being  
5anticipated by Sharrit.

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#### II. PROSECUTION HISTORY

8 Appellants appealed from the Final Rejection and filed an amended  
9Appeal Brief (App. Br.) on December 13, 2006. The Examiner mailed an  
10Examiner's Answer (Ans.) on February 23, 2007. Appellants filed a Reply  
11Brief (Reply Br.) on March 20, 2007.

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#### III. ISSUE

14 Whether Appellants have shown that the Examiner erred in rejecting  
15claims 1-16 and 51-66 as being anticipated by Sharrit.

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#### IV. FINDINGS OF FACT

18 The following findings of fact (FF) are supported by a preponderance  
19of the evidence.

20

#### *Sharrit*

21

1. Sharrit discloses that “[e]ach of RRU**s 13** [reconfigurable resource  
22units] includes signal processing functionality for processing signals on the  
23signal bus **14**.” (Col. 2, ll. 35-36.)

24

2. Sharrit discloses that “the RRU**s 12a-12n** can each include any  
25type of processing device . . . For example, as illustrated in Fig. **2**, an RRU

152 can include a digital signal processor (DSP) 42 coupled to a random  
2access memory (RAM) 44. The DSP 42 is coupled to controller 16 for  
3receiving, among other things, processing commands instructing the DSP 42  
4how to process a signal presently on signal bus 14.” (Col. 5, ll. 33-41.)

5       3. Sharrit discloses that “the RRU 52 can include a mass storage unit,  
6such as a hard disk drive (HDD) 46, for storing a library of programs that  
7can be executed in the DSP 42. When the DSP 42 receives a processing  
8command from the controller 16, it can transfer an appropriate program file  
9from HDD 46 into RAM 44 for use in processing a signal from signal bus  
1014.” (Col. 5, ll. 46-52.)

11       4. Sharrit discloses that “an RRU 54 includes a general purpose  
12processor (GPP) 48 and a field programmable gate array (FPGA) 50.”  
13(Col. 5, ll. 58-60.)

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15                                   V. PRINCIPLES OF LAW

16       "[A]nticipation of a claim under § 102 can be found only if the prior  
17art reference discloses every element of the claim . . . ." *In re King*, 801  
18F.2d 1324, 1326 (Fed. Cir. 1986) (citing *Lindemann Maschinenfabrik*  
19*GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458 (Fed. Cir.  
201984)). "[A]bsence from the reference of any claimed element negates  
21anticipation." *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 1571  
22(Fed. Cir. 1986).

23       “A claim is anticipated only if each and every element as set forth in  
24the claim is found, either expressly or inherently described, in a single prior  
25art reference.” *Verdegaal Bros., Inc. v. Union Oil Co. of California*, 814

1F.2d 628, 631 (Fed. Cir. 1987). Analysis of whether a claim is patentable  
2over the prior art under 35 U.S.C. § 102 begins with a determination of the  
3scope of the claim. We determine the scope of the claims in patent  
4applications not solely on the basis of the claim language, but upon giving  
5claims their broadest reasonable construction in light of the specification as  
6it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of*  
7*Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). The properly  
8interpreted claim must then be compared with the prior art.

9

10 VI. ANALYSIS  
11 *Grouping of Claims*

12 In the amended Brief, Appellants argue claims 1-16 and 51-66 as a  
13group (App. Br. 5-8). Thus, the Board selects illustrative claim 1 to decide  
14the appeal for this group. Accordingly, the remaining claims in this group  
15stand or fall with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(vii). *See also In re*  
16*Young*, 927 F.2d 588, 590 (Fed. Cir. 1991).

17

18 *The Anticipation Rejection*

19 Claims are given their broadest reasonable construction “in light of  
20the specification as it would be interpreted by one of ordinary skill in the  
21art.” *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir.  
222004).

23 To determine whether Sharrit anticipates claims 1-16 and 51-66, we  
24must first determine the scope of the claims. Our reviewing court stated in  
25*Phillips v. AWH Corp.*, 415 F.3d 1303, 1315 (Fed. Cir. 2005), *cert. denied*,

1sub nom. *AWH Corp. v Phillips*, 126 S. Ct. 1332 (2006):

2       The claims, of course, do not stand alone. Rather, they are part of “a  
3       fully integrated written instrument,” *Markman*, 52 F.3d at 978,  
4       consisting principally of a specification that concludes with the  
5       claims. For that reason, claims “must be read in view of the  
6       specification, of which they are a part.” *Id.* at 979. As stated in  
7       *Vitronics*, the specification “is always highly relevant to the claim  
8       construction analysis. Usually, it is dispositive; it is the single best  
9       guide to the meaning of a disputed term.” 90 F.3d at 1582.

10       Initially, we note that Appellants in essence argue that Sharrit’s local  
11controller needs a system processor in conjunction with its general purpose  
12processor (GPP). In other words, Appellants specifically argue that “[t]here  
13is no suggestion in Sharrit that the GPP [general purpose processor]  
14performs local controller functions. All control must be centralized in the  
15controller 16” (App. Br. 7). For this reason, Appellants contend that Sharrit  
16fails to disclose “*a local processor that operates autonomously with respect*  
17*to the other of the plurality of kernels.*”

18       As noted above, during patent prosecution, claims are construed as  
19broadly as is reasonable. Hence, the claimed “*operate autonomously with*  
20*respect to the other of the plurality of kernels*” reads on any operation  
21performed independently from the other plurality of kernels, not necessarily  
22independently from *any* circuitry outside of the computing element, i.e., not  
23independently of a system processor. Thus, we find that what is required is  
24that the local controller in one kernel operates independently from the other  
25kernels.

1 "Having construed the claim limitations at issue, we now compare the  
2claims to the prior art to determine if the prior art anticipates those claims."  
3*In re Cruciferous Sprout Litig.*, 301 F.3d 1343, 1349 (Fed. Cir. 2002).

4 Appellants contend that "Sharrit does not teach, or even suggest, a  
5kernel having a local controller that permits the kernel to operate  
6autonomously with respect to other of a plurality of kernels" (App. Br. 6;  
7Reply Br. 2).

8 The Examiner found that Sharrit discloses a DSP (digital signal  
9processor) that processes a signal from the signal bus 14 by executing one or  
10more software programs stored in RAM 44 (Ans. 6). The Examiner further  
11found that Sharrit discloses that "the GPP 48 delivers a control signal to  
12FPGA [field programmable gate array] 50 instructing it to read the signal on  
13signal bus 14 and to process the signal in an appropriate area of the cell  
14array. *Id.* Furthermore, the Examiner found that in Sharrit, the signal is  
15individually processed by separate RRUs [reconfigurable resource units] one  
16after the other. *Id.* We endorse and adopt the Examiner's findings.

17 As such, we do not find that Appellants have shown error in the  
18Examiner's rejection of illustrative claim 1. Instead, we find that although  
19Sharrit's controller 16 is operative for controlling the operation and  
20configuration of the plurality of RRUs (Sharrit, col. 2, ll. 51-53), Sharrit also  
21discloses a local controller, i.e., DSP/GPP, that permits a kernel to operate  
22autonomously with respect to the other of the plurality of kernels.

23 For example, Sharrit further discloses that each RRU includes signal  
24processing functionality for processing signals on the signal bus, such as a  
25DSP, a HDD (hard disk drive), a GPP and/or a FPGA (FF 1-4). Thus, we



1find that Sharrit's RRU's possess the necessary hardware to operate  
2autonomously with respect to other kernels.

3 Appellants further contend that "[i]n order for the GPP to perform  
4local controller functions and do resource allocation, it would need to obtain  
5information from the DSP [digital signal processor] and/or FPGA [field  
6programmable gate array]. Since information is transmitted only from the  
7GPP to the DSP and/or the FPGA and not the reverse (as indicated by the  
8single-headed arrow), the GPP can not know how loaded the DSP is. Only  
9through the local controller 16 can the GPP know this information" (App.  
10Br. 7).

11 We remind Appellants that the *claims* measure the invention. *See SRI*  
12*Int'l v. Matsushita Elec. Corp.*, 775 F.2d 1107, 1121 (Fed. Cir. 1985) (en  
13banc). Our reviewing court has repeatedly warned against confining the  
14claims to specific embodiments described in the specification. *Phillips v.*  
15*AWH Corp.*, 415 F.3d 1303, 1323 (Fed. Cir. 2005) (en banc). During  
16prosecution before the USPTO, claims are to be given their broadest  
17reasonable interpretation, and the scope of a claim cannot be narrowed by  
18reading disclosed limitations into the claim. *See In re Morris*, 127 F.3d  
191048, 1054 (Fed. Cir. 1997); *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989);  
20*In re Prater*, 415 F.2d 1393, 1404-05 (CCPA 1969). "An essential purpose  
21of patent examination is to fashion claims that are precise, clear, correct, and  
22unambiguous. Only in this way can uncertainties of claim scope be  
23removed, as much as possible, during the administrative process." *In re*  
24*Zletz*, 893 F.2d at 322.

1 The claim terminology of claim 1, under a broad but reasonable  
2 interpretation, does not require that the GPP (i.e., local controller) know how  
3 loaded the DSP is. Again, what is required is that a local controller permits  
4 one kernel to operate autonomously with respect to the others.

5 As to the other recited elements of claim 1, Appellants provide no  
6 argument to dispute that the Examiner has correctly shown where all these  
7 claimed elements appear in the prior art. Thus, we deem any such  
8 arguments waived. *See* 37 C.F.R. § 41.37(c)(1)(vii) (2004).

9 Therefore, we do *not* find that Appellants have shown error in the  
10 Examiner's rejection of illustrative claim 1. Since we find the Examiner has  
11 set forth a sufficient initial showing of anticipation, we affirm the rejection  
12 of independent claim 1 and of claims 2-16 and 51-66, which fall therewith.  
13

## 14 VII. CONCLUSIONS

15 We conclude that Appellants have *not* shown that the Examiner erred  
16 in rejecting claims 1-16 and 51-66.

17 Thus, claims 1-16 and 51-66 are not patentable.  
18

## 19 VIII. DECISION

20 In view of the foregoing discussion, we affirm the Examiner's  
21 rejection of claims 1-16 and 51-66.

44Appeal 2007-3205  
45Application 09/772,584  
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1 No time period for taking any subsequent action in connection with  
2this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv)(2006).

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AFFIRMED

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